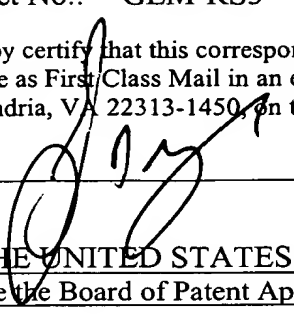




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By: 

Date: May 23, 2003

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
Before the Board of Patent Appeals and Interferences

Inventor : Judd Zebersky
Applic. No. : 09/884,191
Filed : June 19, 2001
Title : Modular House Toy
Examiner : Bena B. Miller Art Unit: 3712

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JUN 02 2003

TECHNOLOGY CENTER R3700

NOTICE OF APPEAL FROM THE PRIMARY EXAMINER TO THE
BOARD OF PATENT APPEALS AND INTERFERENCES

Hon. Commissioner for Patents,

05/29/2003 DTESSEM1 00000018 09884191

01 FC:2401
02 FC:2251

160.00 OP
55.00 OP

Sir:

Applicant hereby appeals to the Board of Patent Appeals and Interferences from the decision dated January 23, 2003 of the Primary Examiner finally rejecting claims 3-6, 8-12, 16-22, 26, 29, 36, 38-42, 44, 59, 60, 62-64, 67, 68, 75, 76, 79, 80, 84, 90, 91 and 93-95.

The \$160.00 appeal fee is enclosed. Petition for extension is herewith made. The extension fee for response within a period of one month pursuant to Section 1.136(a) in the amount of \$55.00 in accordance with Section 1.17 is enclosed herewith.

On March 25, 2003, applicant filed an *Amendment under 37 C.F.R. 1.116* incorporating the features of the independent claim into all claims indicated as allowed by the Examiner; all other claims were canceled. Applicant expected to receive a *Notice of Allowance*. However, on April 17, 2003, the Examiner called the undersigned and indicated that she believed that claims 28, 30, 31, and 34 might be anticipated by U.S. Patent No. 4,508,519 to Becker. Prior to that date, Becker had neither been cited by the Examiner nor used in any rejection of the claims of the instant application. On April 21, 2003, the undersigned conferred with the

Examiner and provided reasons why Becker did not anticipate the cited claims. The Examiner indicated that she would speak with her supervisor and would contact the undersigned shortly thereafter. To date, the undersigned has received no further communication from the Examiner. And, applicant has not received any *Advisory Action* in this application.

The Patent and Trademark Office is hereby given authority to charge Deposit Account No. 12-1099 of Lerner and Greenberg, P.A. for any fees due or deficiencies of payments made for any purpose during the pendency of the above-identified application.

Respectfully submitted,



For Applicant

Gregory L. Mayback
Reg. No. 40,719

Date: May 23, 2003

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GLM/bb